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DAC #21

FELFE & LYNCH

By

Jani Thompson

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



Applicant(s) : Harmut Kalberer, et al.

Serial No. : 08/324,264

Filed : October 17, 1994

For : TAPERED HIP JOINT SOCKET

Art Unit : 3308

Examiner : David Isabella

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

June 20, 1997

RECEIVED  
AUG 4 1997  
OFFICE OF PETITIONS  
AND PATENTS

**PETITION TO REVIVE ABANDONED APPLICATION  
AND REQUEST RE--MAILING OF  
NOTICE OF ALLOWANCE NOT RECEIVED**

Sir:

On June 13, 1997, Applicants' received a Notice of Abandonment indicating that the above referenced application was abandoned for failure to pay the issue fee within the statutory period of 3 months from the mailing date of a Notice of Allowance that was sent on September 30, 1996. As a result of Applicants' alleged failure to pay the issue fee, the application was abandoned.

In response thereto, Applicants respectfully submit that the September 30, 1996, Notice referred to in the Notice of Abandonment was never received by Applicants' representative. Accordingly, pursuant to M.P.E.P. 711.03(c), page 700-86, Applicants respectfully petition that the application be revived and a new Notice of Allowance be sent.

In support of the above request, the file jacket corresponding to the above application has been examined.

CERA 221 PFF

As evidence of the non-receipt of the Notice of Allowance, submitted herewith as Exhibits 1 and 2, are photocopies of the firm's docketing log book for December 30, 1996 and Applicants' representative's docket sheet for the month of December, 1996. If the Notice of Allowance dated September 30, 1996, had actually been received, then notation of the Issue Fee due corresponding to CERA 221-PFF/VMF, which is the internal docket number assigned to the above case, would have been entered in the docketing log book of the action required on December 30, 1996, three months from September 30, 1996.

In addition, the monthly docket, attached hereto as Exhibit 2, would have also reflected the same. However, as is evident from the attached exhibits, there are no notations of the Issue Fee due in either the firm's docketing log book or in the monthly docket report. Accordingly, the absence of such a notation confirms that the Notice of Allowance sent by the Patent and Trademark Office on September 30, 1996, was never received by Applicant's representative.

Accordingly, favorable action on the instant petition is requested and a new Notice of Allowance is earnestly solicited.

Respectfully submitted,

FELFE & LYNCH

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~~PFF/EPK heart 808 electronic (12-30-96) Prep Renewal due (12/30/97)~~

~~PFF/EPK koh1004 (12-30-96) Estimating period for Party in position of Plaintiff to close~~

~~Ter/MS Jones 205 (12-30-96) Prior ART PTO 12/6/96  
PTO 12/16/96~~

~~PFF/VK Habr 1613 div (12-30-96) Issue fee due~~

~~PFF/NDH Beck 1036 (12-30-96) Rule 116 N/A Due Ext  
PTO 12/20/96 PTO 10-7-96~~

~~Ter/FBF Yang 212 (12-30-96) Issue fee & format due~~

~~Ter/FBF SAAZ 237.1 CIP (12-30-96) Rule 116 Due  
PTO 12/20/96 PTO 10/16/96~~

~~Ter/FBF Lypa 202 (12-30-96) Issue fee & format due  
PTO 12/30/96 PTO 10/16/96~~

~~PFF/VMF Hevels 13331 corr (12-30-96) Issue fee Due  
PTO 12-30-96~~

~~PFF/FBF Bosch 397 (12-30-96) Convention filing due  
Ext 1 mo~~

~~Ter/VMF Kel 236 CA (12-30-96) Response to office Action  
off fil EPK Rem 1-15-97~~

~~PFF/EPK Alvet 005 (12-30-96) Answer due  
PTO 12/30/96~~

~~Ter/NDH Lud 5448 (12-30-96) Prior Art + Post Date~~

~~Ter/NDH End 1001 (12-30-96) Update allowance list for Ed medcom  
n.o.u Ext~~

**Exhibit 2**

## DOCKET STATUS REPORT

11/22/96

November 96

ATTORNEY	CLIENT/CASE	DATE	DESCRIPTION
VMF	CERA 226 US	✓ 12/03/96 12/17	REMINDER TRANSMIT O/A TO CLIENT -0- OPEN
VMF	HUBR 1059 US	✓ 12/05/96	REMINDER RULE 116 NOTICE OF APPEAL W/2ND EXT FEE DUE -0- OPEN
VMF	KIT 223D US	12/06/96	REMINDER TRANSMIT O/A TO CLIENT -0- OPEN
VMF	KEL 243 PCT	12/07/96	REMINDER 2 MONTH REMINDER (NATIONAL PHASE DUE (20) 02/07/97) -0- OPEN
VMF	KEL 243 PCT	12/07/96	REMINDER 1 MONTH REMINDER (CHAPTER II DUE 01/07/97) -0- OPEN
VMF	HUBR 715.3 CONT	12/09/96	REMINDER REPLY BRIEF AND REQUEST FOR ORAL HEARING W/3RD EXT FEE DUE -0- OPEN
VMF	MG 282 US	12/09/96	REMINDER TRANSMIT O/A TO CLIENT (FINAL REJECT) -0- OPEN
VMF	SCHT 202 US	✓ 12/09/96	REMINDER RULE 116 NOTICE OF APPEAL DUE -0- OPEN
VMF	SCHT 203 US	✓ 12/09/96	REMINDER RULE 111 AND DRAWING CHANGES DUE -0- OPEN
VMF	KIT 244 US	12/10/96	REMINDER FOLLOW UP ON UNEXECUTED DECL -0- OPEN
VMF	MIG 202.4 DIVISIONAL	✓ 12/10/96	REMINDER RULE 111 DUE -0- OPEN

## DOCKET STATUS REPORT

11/22/96

ATTORNEY	CLIENT/CASE	DATE	DESCRIPTION
VMF	HUBR 1033.2 CONTINUATION IN PART	12/11/96 11/26	REMINDER TRANSMIT D/A TO CLIENT -0- OPEN
VMF	HUBR 1096 US	12/11/96	REMINDER PRIOR ART STATEMENT -0- OPEN
VMF	CERA 225 US	12/12/96	REMINDER ISSUE FEE AND FORMAL DRAWINGS DUE -0- OPEN
VMF	KIT 241 US	12/12/96	REMINDER SIGN DECLARATION DUE -0- OPEN
VMF	ZAPP R 447 US	12/12/96	REMINDER CASE DUE BACK TO CLIENT FOR REVIEW (CONVENTION FILING DUE 1-25-97) OPEN
VMF	SCHT 204 US	12/13/96	REMINDER RULE 111 AND DRAWINGS DUE -0- OPEN
VMF	MIG 213.2 CONT	12/14/96	REMINDER NOTICE OF APPEAL W/3RD EXT FEE DUE -0- OPEN
VMF	KEL 252 US	12/15/96	REMINDER FOLLOW UP ON UNEXECUTED DECLARATION -0- OPEN
VMF	BOER 1012.2 DIVISIONAL	12/16/96	REMINDER NOTICE OF APPEAL DUE <i>by 12/15/6</i> -0- OPEN
VMF	MG 291 US	12/16/96	REMINDER 2 MO REM (RULE 116 N/A DUE 1-16-97) -0- OPEN
VMF	MAD 247 US	12/17/96	REMINDER RESTRICTION REQUIREMENT DUE W/1ST EXT FEE DUE -0- OPEN

## DOCKET STATUS R.E.P.O.R.T.

11/22/96

ATTORNEY	CLIENT/CASE	DATE	DESCRIPTION
VMF	SCHT 201 US	12/17/96	REMINDER ISSUE FEE DUE -0- OPEN
VMF	HUBR 1013.1 CONT	12/18/96	REMINDER 2 MO REM (RULE 116 N/A DUE 01-18-97) -0- OPEN
VMF	HUBR 1015.1 CONT	12/18/96	REMINDER R. 111 DUE -0- OPEN
VMF	BOER 1012.1 CONT	✓ 12/20/96	REMINDER NOTICE OF APPEAL W/EXT FEE DUE -0- OPEN
VMF	ENSR 204-PCT CANADA	12/21/96	REMINDER REQUEST EXAMINATION DUE -0- OPEN
VMF	ENSR 204 CANADA	12/21/96	REMINDER REQUEST FOR EXAMINATION DUE -0- OPEN
VMF	HUBR 1061 US	✓ 12/23/96	REMINDER <i>Abandon at 12/10</i> 2 MO REM (RULE 116 N/A DUE 1-23-97) -0- OPEN
VMF	KEL 236.1-REISSU CONT	12/24/96	DUE DATE-JEL RULE 111 DUE -0- OPEN
VMF	KIT 241 US	12/24/96	REMINDER PRELIMINARY AMENDMENT DUE -0- OPEN
VMF	KIT 241 US	12/24/96	REMINDER PRIOR ART STATEMENT DUE -0- OPEN
VMF	KIT 242 US	✓ 12/24/96 12/18	REMINDER PRIOR ART STATEMENT DUE -0- OPEN

## DOCKET STATUS REPORT

11/22/96

ATTORNEY	CLIENT/CASE	DATE	DESCRIPTION
VMF	KIT 242 US	12/24/96	REMINDER PRELIMINARY AMENDMENT DUE -0- OPEN
VMF	KIT 243 US	12/25/96	REMINDER PRELIMINARY AMENDMENT DUE -0- OPEN
VMF	KIT 243 US	12/25/96	REMINDER PRIOR ART STATEMENT DUE -0- OPEN
VMF	HUBR 1075 US	✓ 12/26/96	REMINDER RULE 111 DUE -0- OPEN
VMF	MG 294 US	12/27/96	REMINDER RULE 111 DUE -0- OPEN
VMF	MIG 217.1 CONT	✓ 12/27/96 12/16	REMINDER RULE 111 DUE -0- OPEN
VMF	SADA 242.1 CONTINUATION IN PART	12/28/96	REMINDER RULE 116 NOTICE OF APPEAL W/EXT FEE DUE -0- OPEN
VMF	KIT 249 US	12/29/96	REMINDER FOLLOW UP ON UNEXECUTED DECLARATION -0- OPEN
VMF	NTD 204 PCT	✓ 12/30/96 12/18	REMINDER PRIOR ART STATEMENT DUE -0- OPEN